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20306 7590 04/14/2008 MCDONNELL BOEHNNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606				
EXAMINER CHOUDHURY, AZIZUL Q				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/972,424

Applicant(s)

MATICHUK ET AL.

Examiner

AZIZUL CHOUDHURY

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/IC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Detailed Action

The current office action is in response to the correspondence received on January 14, 2008.

Withdrawal of Finality

Applicant's arguments within the last correspondence are deemed persuasive and, therefore, the finality of the last action is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (US Pat No: US006163316A) in view of Klosterman et al (US Patent No: 5,940,073), hereafter referred to as Killian and Klosterman, respectively.

1. With regards to claim 1, Killian teaches through Klosterman, a method of programming a media-based device over a network, the method comprising:
enabling an advertisement for a broadcast program to be provided on a first web

site (column 5, lines 10-29, Killian), wherein the broadcast program is scheduled to be broadcast at a predetermined start time (column 8, lines 19-26, Killian); enabling selection of the advertisement; and in response to selection of the advertisement, allowing automatic programming of the media-based device to record the broadcast program at the predetermined start time (Killian teaches how a website interface allows a user to select to record a show on a recorder at the predetermined start time; column 5, line 51 – column 6, line 5 and column 8, lines 19-26, Killian).

While Killian does teach the scheduling of the recording of a show through a web interface, Killian does not explicitly cite the selection of an advertisement to start the scheduling of the recording of the programming. In the same field of endeavor, Klosterman also teaches an interactive program guide. Killian's design allows for schedule information to be viewed through a computer; see column 1, lines 55-62, Klosterman. While viewing through the computer, the user is allowed to click on an advertisement which allows for the scheduling of the recording of the infomercial/program; see column 2, lines 14-17, Klosterman. By selecting the advertisement for scheduling a recording, the user streamlines the scheduling process by eliminating the need for selecting the desired program to record. Therefore, it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Killian with those of Klosterman, to allow for the scheduling of the desired program by clicking on an advertisement; see column 2, lines 14-17, Klosterman.

2. With regards to claim 2, Killian teaches through Klosterman, the method wherein the advertisement comprises a hyperlink to a second web site capable of accessing the media-based device, the hyperlink being embedded in the first web site (Killian teaches how a link leads a viewer to a second site; column 5, lines 19-21, Killian. The show can be recorded from the webpage; column 5, line 51 – column 6, line 5, Killian. Plus, Klosterman teaches how a user is allowed to click on an advertisement which allows for the scheduling of the recording of the infomercial/program; see column 2, lines 14-17, Klosterman).
3. With regards to claim 3, Killian teaches through Klosterman, the method, wherein enabling selection of the advertisement and allowing automatic programming of the media-based device are invoked by one click on the hyperlink (Killian allows for various input devices, including a mouse and touch screen and teaches the use of hyperlinks; column 4, lines 47-50 and column 5, lines 10-29, Killian. Plus, Klosterman teaches how a user is allowed to click on an advertisement which allows for the scheduling of the recording of the infomercial/program; see column 2, lines 14-17, Klosterman).
4. With regards to claim 4, Killian teaches through Klosterman, the method, further comprising: allowing the second website to monitor a count of a number of times the hyperlink is selected; and enabling the second website to periodically collect

revenue from the first website based on the count (Killian's design allows for tracking of customers, it is inherent that cookies are applied; column 10, lines 1-17, Killian. In addition, it is inherent that revenue can be captured in cable/satellite services; column 3, lines 50-57, Killian).

5. With regards to claim 5, Killian teaches through Klosterman, the method, wherein the revenue comprises a percentage of advertising revenue associated with the advertisement (Killian's design allows for tracking of customers, it is inherent that cookies are applied; column 10, lines 1-17, Killian. In addition, it is inherent that revenue can be captured in cable/satellite services; column 3, lines 50-57, Killian. Plus Klosterman teaches how promotional information (advertisements) can bring in additional revenue; see column 6, lines 50-57, Klosterman).
6. With regards to claim 6, Killian teaches through Klosterman, the method, wherein the media-based device comprises a video replay system (element 20, Figure 1, Killian).
7. With regards to claim 7, Killian teaches through Klosterman, the method, wherein enabling selection of the advertisement comprises: enabling identification of a user selecting the advertisement; and enabling authentication of the user with the media-based device (Killian's design tracks users through viewer profiles; column 10, lines 1-17, Killian. Plus, Klosterman's design allows for users to authorize

payment of a program (authentication of user) to ensure the proper content is sent to the proper recipient; see column 2, lines 50-60, Klosterman).

8. With regards to claim 8, Killian teaches through Klosterman, the method, wherein enabling identification of a user selecting the advertisement comprises: allowing identification of a cookie associated with the user; and enabling the cookie to be forwarded to the media-based device (Killian's design allows for tracking of customers, it is inherent that cookies are applied; column 10, lines 1-17, Killian).
9. With regards to claim 9, Killian teaches through Klosterman, the method, wherein the cookie is extracted from a client enabled to communicate with the first website (Killian's design allows for tracking of customers, it is inherent that cookies are applied; column 10, lines 1-17, Killian).
10. With regards to claim 10, Killian teaches through Klosterman, the method, wherein the cookie is extracted from a computer hosting the first website (Killian's design allows for tracking of customers, it is inherent that cookies are applied; column 10, lines 1-17, Killian).
11. With regards to claim 11, Killian teaches through Klosterman, the method, wherein enabling identification of a user selecting the advertisement comprises: enabling linking of the first web site to a second web site; allowing navigation to

the second web site; and in response, the second web site enabling prompting of a user for identification data (column 10, lines 40-44, Killian).

12. With regards to claim 12, Killian teaches through Klosterman, the method, wherein enabling identification of a user selecting the advertisement comprises: enabling determination of a URL for the first web site; and enabling determination of partner identification information associated with the first web site (Killian's design allows for hyperlinks; column 10, lines 40-44, Killian. It is inherent that when a link is clicked, it will redirect/open a new site/data).

13. With regards to claim 13, Killian teaches through Klosterman, the method, wherein allowing automatic programming of the media-based device to record the broadcast program comprises: enabling determination of a user associated with the media-based device; allowing navigation from the first web site to a second web site; and allowing the user to log into the second web site (Killian's design tracks users through viewer profiles; column 10, lines 1-17, Killian).

14. With regards to claim 14, Killian teaches through Klosterman, the method, wherein the advertisement comprises a clickable online advertisement for a broadcast program to be aired (Killian teaches how a website interface allows a user to select to record a show on a recorder at the predetermined start time; column 5, line 51 – column 6, line 5 and column 8, lines 19-26, Killian. Plus

Klosterman teaches clickable advertisements for recording programs; see column 2, lines 14-17, Klosterman).

15. With regards to claim 15, Killian teaches through Klosterman, the method, where broadcast program comprises a television program (column 3, line 59 – column 4, line 19, Killian).

16. With regards to claim 16, Killian teaches through Klosterman, the method, where broadcast program comprises a cable program (column 3, line 53 – column 4, line 19, Killian).

17. With regards to claim 17, Killian teaches through Klosterman, the method, where broadcast program comprises a pay-per-view program (column 3, line 59 – column 4, line 19, Killian).

18. With regards to claim 18, Killian teaches through Klosterman, the method, where broadcast program comprises a satellite-based program (column 3, line 53 – column 4, line 19, Killian).

19. With regards to claim 19, Killian teaches through Klosterman, a method of programming a media-based device to record content through a web based application, comprising: receiving a selection of an advertisement of a broadcast

program to be aired at a predetermined start time (column 8, lines 5-26, Killian); extracting identification information associated with a user making the selection and with broadcast program (column 8, lines 5-26, Killian); accessing a source web service in response to the user selection received (column 8, lines 5-26 and Figure 1, Killian); logging into the source web service using the identification information (equivalent to viewer profiles; column 10, lines 1-17, Killian).; and the source web service programming the media-based device to record the broadcast program selected at the predetermined start time (column 8, lines 19-26, Killian).

While Killian does teach the scheduling of the recording of a show through a web interface, Killian does not explicitly cite the selection of an advertisement to start the scheduling of the recording of the programming. In the same field of endeavor, Klosterman also teaches an interactive program guide. Killian's design allows for schedule information to be viewed through a computer; see column 1, lines 55-62, Klosterman. While viewing through the computer, the user is allowed to click on an advertisement which allows for the scheduling of the recording of the infomercial/program; see column 2, lines 14-17, Klosterman. By selecting the advertisement for scheduling a recording, the user streamlines the scheduling process by eliminating the need for selecting the desired program to record. Therefore, it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Killian with those of

Klosterman, to allow for the scheduling of the desired program by clicking on an advertisement; see column 2, lines 14-17, Klosterman.

20. With regards to claims 20, 25 and 30, Killian teaches through Klosterman, a method, wherein the media-based device records the broadcast program with one click from the user of the advertisement (Killian allows for various input devices, including a mouse and touch screen and teaches the use of hyperlinks; column 4, lines 47-50 and column 5, lines 10-29, Killian. Plus, Klosterman teaches how users can click on an advertisement to schedule the recording of a program; see column 2, lines 14-17, Klosterman).

21. With regards to claims 21, 26 and 39, Killian teaches through Klosterman, a method, wherein the advertisement comprises a clickable online advertisement for a broadcast program (Killian allows for various input devices, including a mouse and touch screen and teaches the use of hyperlinks; column 4, lines 47-50 and column 5, lines 10-29, Killian. Plus, Klosterman teaches how users can click on an advertisement to schedule the recording of a program; see column 2, lines 14-17, Klosterman).

22. With regards to claims 22 and 27, Killian teaches through Klosterman, a method, further comprising: collecting revenue based on the advertisement selected (Killian's design allows for tracking of customers, it is inherent that cookies are

applied; column 10, lines 1-17, Killian. In addition, it is inherent that revenue can be captured in cable/satellite services; column 3, lines 50-57, Killian. Plus Klosterman teaches how promotional information (advertisements) can bring in additional revenue; see column 6, lines 50-57, Klosterman).

23. With regards to claims 23, 28, 32, 34, 36 and 38, Killian teaches through Klosterman, a method, wherein the media-based device comprises a digital video recorder (column 3, lines 10-12, Killian).

24. With regards to claim 24, Killian teaches through Klosterman, a computer-implemented method for controlling a media-based device through a virtual browser, the method comprising; the steps of the virtual browser: receiving from a client system a selection of an advertisement of a broadcast program to be aired (column 8, lines 5-26, Killian); extracting identification information associated with a user making the selection and with the broadcast program (column 8, lines 5-26, Killian); accessing an online web service using the identification information (equivalent to viewer profiles; column 10, lines 1-17, Killian); and invoking the media-based device to record the broadcast program selected (column 8, lines 19-26, Killian)., wherein the media-based device is different from the client system (The recorder of Killian's design is separate from the client system; Figure 1, element 20, Killian)

While Killian does teach the scheduling of the recording of a show through a web interface, Killian does not explicitly cite the selection of an advertisement to start the scheduling of the recording of the programming. In the same field of endeavor, Klosterman also teaches an interactive program guide. Killian's design allows for schedule information to be viewed through a computer; see column 1, lines 55-62, Klosterman. While viewing through the computer, the user is allowed to click on an advertisement which allows for the scheduling of the recording of the infomercial/program; see column 2, lines 14-17, Klosterman. By selecting the advertisement for scheduling a recording, the user streamlines the scheduling process by eliminating the need for selecting the desired program to record. Therefore, it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Killian with those of Klosterman, to allow for the scheduling of the desired program by clicking on an advertisement; see column 2, lines 14-17, Klosterman.

25. With regards to claim 29, Killian teaches through Klosterman, method for programming a media-based device that is network enabled, comprising: receiving from a client system a user command that causes a first server to access a second server, the first server transmitting identifying information of the user to the second server (Figure 1, elements 46 and 48, Killian); the second server authenticating the user based on the identifying information (see viewer profiles; column 10, lines 1-17, Killian); the second server accessing the

media-based device to program the media-based device with the identifying information (column 8, lines 19-26, Killian), wherein the media-based device is different from the client system (The recorder of Killian's design is separate from the client system; Figure 1, element 20, Killian)

While Killian does teach the scheduling of the recording of a show through a web interface, Killian does not explicitly cite the authenticating of the user based on identifying information. In the same field of endeavor, Klosterman also teaches an interactive program guide. Killian's design allows for schedule information to be viewed through a computer; see column 1, lines 55-62, Klosterman. When the user wishes a program to be schedule for recording, the user is authenticated by authorizing payment; see column 2, lines 50-60, Klosterman. By authenticating users, the system ensures that the appropriate content is sent to the appropriate users. Therefore, it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Killian with those of Klosterman, to allow for the scheduling of the desired program by authorizing payments; see column 2, lines 50-60, Klosterman.

26. With regards to claim 31, Killian teaches through Klosterman, the method, wherein the advertisement identifies a broadcast program to be aired, and the identifying; information comprises data related to the broadcast program (column 8, lines 19-26, Killian)

27. With regards to claim 33, Killian teaches through Klosterman, a system, comprising: a client side system enabled to allow selection of an online advertisement for a broadcast program while navigating a first web site, wherein the broadcast program is scheduled to be broadcast at a predetermined start time (column 8, lines 5-26, Killian); and a server side system enabled to automatically program a media-based device to record the broadcast program after selection of the online advertisement (column 8, lines 5-26 and Figure 1, Killian), the media-based device being communicatively coupled to the server side system over a network in response to the advertisement being selected (The recorder of Killian's design is separate from the client system; Figure 1, element 20, Killian)

While Killian does teach the scheduling of the recording of a show through a web interface, Killian does not explicitly cite the selection of an advertisement to start the scheduling of the recording of the programming. In the same field of endeavor, Klosterman also teaches an interactive program guide. Killian's design allows for schedule information to be viewed through a computer; see column 1, lines 55-62, Klosterman. While viewing through the computer, the user is allowed to click on an advertisement which allows for the scheduling of the recording of the infomercial/program; see column 2, lines 14-17, Klosterman. By selecting the advertisement for scheduling a recording, the user streamlines the scheduling process by eliminating the need for selecting the desired program

to record. Therefore, it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Killian with those of Klosterman, to allow for the scheduling of the desired program by clicking on an advertisement; see column 2, lines 14-17, Klosterman.

28. With regards to claim 35, Killian teaches through Klosterman, a browser program product for programming a media-based device over a network, the browser program product stored on a computer readable medium and adapted to perform the operations of: enabling an advertisement for a broadcast program to be provided on a first web site (column 5, lines 10-29, Killian), wherein the broadcast program is scheduled to be broadcast at a predetermined start time (column 8, lines 19-26, Killian); enabling selection of the advertisement (column 5, line 51 – column 6, line 5, Killian); and in response, allowing automatic programming of the media-based device to record the broadcast program after selection of the advertisement (Killian teaches how a website interface allows a user to select to record a show on a recorder at the predetermined start time; column 5, line 51 – column 6, line 5 and column 8, lines 19-26, Killian).

While Killian does teach the scheduling of the recording of a show through a web interface, Killian does not explicitly cite the selection of an advertisement to start the scheduling of the recording of the programming. In the same field of endeavor, Klosterman also teaches an interactive program guide. Killian's design allows for schedule information to be viewed through a computer; see

column 1, lines 55-62, Klosterman. While viewing through the computer, the user is allowed to click on an advertisement which allows for the scheduling of the recording of the infomercial/program; see column 2, lines 14-17, Klosterman. By selecting the advertisement for scheduling a recording, the user streamlines the scheduling process by eliminating the need for selecting the desired program to record. Therefore, it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Killian with those of Klosterman, to allow for the scheduling of the desired program by clicking on an advertisement; see column 2, lines 14-17, Klosterman.

29. With regards to claim 37, Killian teaches through Klosterman, a computer server program product for programming a media-based device over a network, the computer server program product stored on a computer readable medium, and adapted to perform the operations of a virtual browser, comprising: receiving a selection of an advertisement of a broadcast program to be aired at a predetermined start time (column 8, lines 5-26, Killian); extracting identification information associated with a user making the selection and with broadcast program (column 8, lines 5-26, Killian); accessing an online web service using the identification information (equivalent to viewer profile; column 10, lines 1-17, Killian); and invoking the media-based device to record the broadcast program selected at the predetermined start time (column 8, lines 19-26, Killian).

While Killian does teach the scheduling of the recording of a show through a web interface, Killian does not explicitly cite the selection of an advertisement to start the scheduling of the recording of the programming. In the same field of endeavor, Klosterman also teaches an interactive program guide. Killian's design allows for schedule information to be viewed through a computer; see column 1, lines 55-62, Klosterman. While viewing through the computer, the user is allowed to click on an advertisement which allows for the scheduling of the recording of the infomercial/program; see column 2, lines 14-17, Klosterman. By selecting the advertisement for scheduling a recording, the user streamlines the scheduling process by eliminating the need for selecting the desired program to record. Therefore, it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Killian with those of Klosterman, to allow for the scheduling of the desired program by clicking on an advertisement; see column 2, lines 14-17, Klosterman.

30. With regards to claim 40, Killian teaches through Klosterman, the method wherein allowing automatic programming of the media-based device to record the broadcast program, further comprises: allowing detection of whether the user selected the advertisement previously; and in response to the user previously not selecting the advertisement, enabling the second web site to communicate with the media-based device to record the broadcast program (It is inherent that when a page is not cached, it will retrieve the page associated with the link).

31. The obviousness motivation applied to independent claims 1, 19, 24, 29, 33, 35 and 37 are applicable to their respective dependent claims.

Remarks

Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AZIZUL CHOUDHURY whose telephone number is (571)272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2145

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. C./

Examiner, Art Unit 2145

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145